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Marion J. G. Bussemakers *et al.*  
Appl. No. 09/402,713

### **REMARKS**

Reconsideration of this Application is respectfully requested.

Applicants wish to thank Examiner Yu for the withdrawal of the objection to the specification and the withdrawal of the previous rejections under 35 U.S.C. § 112, first and second paragraphs. Applicants also thank the Examiner for the allowance of claims 8-10, 27, 37, 38 and 48-50.

Upon entry of the foregoing amendments, claims 2, 4-10, 12-13, 25-29, 31-33, 35, 37-39 and 41-42, 44-52, 54-56 and 58-60 are pending in the application, with claims 2, 4, 8, 27, 39, 46, 48 and 54 being the independent claims. Claims 14, 43, 53, and 57 are hereby canceled without prejudice or disclaimer. These changes are believed to introduce no new matter, and their entry is respectfully requested.

The above amendments to the claims have been made solely to expedite prosecution of the above-identified application and should not be taken as acquiescence to the Office's rejections.

#### ***Rejection Under 35 U.S.C. § 112, First Paragraph***

The rejection of claims 14, 43, 53 and 57 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement is respectfully traversed.

Solely in order to expedite prosecution of the above-identified application, Applicants have canceled claims 14, 43, 53 and 57, rendering this rejection moot. Applicants reserve the right to file divisional applications directed to the subject matter of these canceled claims.

In view of the above, withdrawal of the rejection under 35 U.S.C. § 112, first paragraph is respectfully requested.

***Rejection Under 35 U.S.C. § 102(a)***

The rejection of claims 2, 39, 45-46, 54 and 58-60 under 35 U.S.C. § 102(a), as allegedly being anticipated by Bussemakers *et al.*, 87th Annual Meeting of the American Association for Cancer Research, Washington, DC, 1996, April 20-24 ("Bussemakers Abstract") is respectfully traversed.

Applicants respectfully assert that Bussemakers does not qualify as a reference under 35 U.S.C. § 102(a) because Bussemakers is Applicants' disclosure of their own work. Although Bussemakers lists co-authors in addition to Applicants, a rejection under 35 U.S.C. § 102(a) may still be overcome by establishing that the portions of the reference pertinent to the claimed invention describe Applicants' own work. *See In re Katz*, 215 U.S.P.Q. 14 (C.C.P.A. 1982).

In the Declaration under 37 C.F.R. § 1.132 of Marion Bussemakers ("Bussemakers Declaration"), attached as Exhibit A, Applicant Marion Bussemakers states that co-author Adrie van Bokhoven performed experiments related to the Bussemakers Abstract that do not amount to an inventive contribution of the claimed invention of the present application. As stated in the Bussemakers Declaration, Adrie van Bokhoven was a technicians in Dr. Bussemaker's laboratory and carried out experiments under Dr. Bussemakers' direct supervision and control.

Likewise, in the Declaration under 37 C.F.R. § 1.132 of William B. Isaacs ("Isaacs Declaration"), attached as Exhibit B, Applicant William Isaacs states that co-author Ning Ru performed experiments related to the Bussemakers Abstract that do not amount to an inventive contribution of the claimed invention of the present application. As stated in the Isaacs Declaration, Ning Ru was a post-doctoral fellow in Dr. Isaac's laboratory and carried out experiments under Dr. Isaacs' direct supervision and control.

Thus, in light of the Bussemakers and Isaacs Declarations, the Bussemakers Abstract cannot serve as a prior art reference in a rejection of the pending claims under 35 U.S.C. § 103(a).

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Further, Applicant does not agree with the substance of the Office's rejection under 35 U.S.C. § 102 (a), even if the abstract was available as prior art.

In view of the above remarks, withdrawal of the rejection under 35 U.S.C. § 102(a) is respectfully requested.

### CONCLUSION

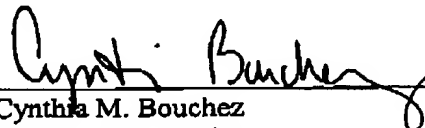
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

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by

  
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